

Response to Comments  
NPDES General Permit for Discharges Associated with Nonmetal Mineral Mining Facilities  
SCG730000  
September 30, 2010

1) Comment: Several comments were made to the effect of recommending that the Department allow stormwater discharges from construction and exploration activity at mine sites as allowed under the EPA Multi-Sector General Permit and as written in previous versions of this draft permit.

Response: The Department has revised the draft permit such that stormwater discharges associated with construction and exploration activity at mine sites are allowable discharges if in conjunction with mining activities.

2) Comment: Part IV.B.1.d references that sampling for process waters “shall be representative of the storm’s influence on the discharge to the degree practicable” and further cites stormwater monitoring procedures. These procedures are not applicable to process water and mine dewatering and the reference to the procedures should be removed and cite that “sampling must be performed according to the applicable monitoring schedule in Part X”.

Response: The Department believes that it is important for stormwater to be subject to stormwater monitoring procedures to ensure that stormwater BMP’s and control measures are effective. Prior to the public notice of the draft permit, the Department made a revision to the draft permit at IV.C.2.a that exempted discharges subject to the Part X effluent limitations from stormwater benchmark monitoring. The rationale for that change was that the Part X effluent limitations for total suspended solids are more protective than the 100 mg/l quarterly benchmark for TSS. However, in response to this comment, the Department is removing the exemption from benchmark monitoring at IV.C.2.a for discharges subject to Part X effluent limitations. Therefore, because these discharges will be subject to stormwater monitoring requirements under the benchmark monitoring program, we have also removed condition IV.B.1.d as requested. In addition, at IV.B.12.b and IV.C.2.a, the Department has clarified that benchmark monitoring data is not subject to DMR reporting requirements.

3) Comment: Why is it necessary to include “container, rolling stock, concentrated animal feeding operation, landfill leachate collection system” in the definition of pollution point sources associated with nonmetal mineral mining?

Response: The Department agrees it is not likely for these elements of the definition of point source to be applicable at a nonmetal mineral mining facility. However, not being aware of any conflict or specific problem caused by their inclusion, the Department is reluctant to modify this standard definition which has been included in the previous general permit, the EPA Multi-Sector General Permit, the South Carolina Industrial General Permit, and South Carolina general permit for stormwater discharges from construction activities.

4) Comment: Outfall locations are subject to change as mine development advances. How is that to be handled? Does the Department need to be notified each time a new outfall is created? See III.B.1.e, III.B.1.g, and III.G.

Response: The location of the outfall is important information for multiple reasons. If the receiving stream changes as a result of the change in outfall location, effluent limitations could change if there is a change in stream classification. In addition, the Department considers the location of the outfall in considering effects on threatened and endangered species. Also, the Department maintains a GIS database of outfall locations which is heavily used by Department staff for various purposes. Because this is a permit to discharge, the Department believes it is reasonable to require the permittee to provide notification of changes in the outfall location. In addition, the Department notes that these are not new requirements but were included in the previous permit as well.

5) Comment: Shouldn't intent to be covered under SCG730000 be required for all operations? For operations provided coverage under the current version of SCG730000, once coverage under the current permit lapses, no coverage is provided unless specifically requested by the operator. If SCG730000 coverage is not requested by the NOI, such an operator would be forced to seek Individual Permit coverage. See Part III.D.

Response: If a facility's most recent NOI is still accurate, the Department does not believe it should be necessary to require that facility to renotify. The assumption will be that the facility is seeking continued coverage under the new permit, and the permit is written such that coverage will be continued. If a facility desires for their coverage to cease, they would be required to submit a Notice of Termination.

6) Comment: In Part IV.B.16, why are "manufacturing, commercial, and silvicultural" incorporated into the general permit for nonmetal mining?

Response: The Department has deleted the reference to manufacturing, commercial, and silvicultural.

7) Comment: In Part V.H.4, the Department may sample any substance or parameters at any location. Why would the Department need to collect samples for parameters that are not specifically addressed by the permit?

Response: The general permit addresses specific parameters that would reasonably be expected to be present at all covered facilities. It is feasible that in other specific situations legitimate concerns could be raised about other parameters. One example would be if the receiving stream were impaired for a particular parameter, the need could arise to sample the discharge for that particular parameter.

8) Comment: Part V.M seems to indicate any new discharge requires an individual NPDES permit application. Does that apply if I simply add a new sediment basin that discharges to the waters of the state?

Response: The condition states that a new discharge may be allowed under the general permit if the change will not violate the effluent limitations of the permit. If the new discharge would not comply with the effluent limitations of the general permit, then an individual NPDES permit application would be required.

9) Comment: How can this permit be subject to revocation at the request of “any interested person”? See Part VI.A.1.

Response: Any interested person may request that the permit be revoked. The Department would then decide whether or not to revoke the permit. A request by an interested person to revoke the permit does not require that the permit indeed be revoked.

10) Comment: The required BMP Plan and Stormwater Pollution Plan and all the many required inspections, monitoring events, and recordkeeping activities are onerous, and problematic due to potential for “paper” violations/non-compliance.

Response: The Department recognizes the impact of the new requirements particularly on smaller operations and that there may be potential for non-compliance. However, there is a potential for non-compliance with respect to all NPDES permits. In addition, the nature and severity of the compliance issue will determine the Department’s response.

11) Comment: Part IX.A.2.a needs clarification. Is the intent to suggest covering of activities such as vehicle maintenance, fueling and the like? If so, specify that. Currently, the clause suggests that the crushing plant (“manufacturing”), and stockpiles (“storage piles”) at a crushed stone operation must be covered.

Response: The Department agrees that the wording of Part IX.A.2.a does not reflect the intended meaning of the term “minimize” as included in the first sentence of Part IX – “‘minimize’ means reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.” Therefore, the Department has revised the wording of Part IX.A.2.a to clarify that locating activities inside or providing storm resistant coverings are not dictated in every situation but simply options for minimizing exposure.

12) Comment:

**Page 25 of 64 – Part IV – Section C.2.a.i.(c)** – *It would be helpful to clarify what you mean by “any co-located industrial activities.”* I assume that you mean those activities that have a different SIC Code than SIC Code 14 series. However, if this assumption is correct, it seems to conflict with **Page 12 of 64 – Part II – Section B.2.i.**, which states that the discharges from such activities are not authorized by this Permit unless in compliance with the terms of a different general or individual NPDES permit authorizing such discharges or otherwise approved by the Department. Therefore, if this is the case, how can you then subject any co-located industrial activities to a benchmark monitoring concentration of 100 mg/L Total Suspended Solids (TSS) if this Permit does not seemingly apply to them and they are under another general or individual NPDES permit?

Response: Part IV.C.2.a.i(c) means that the benchmark applies to the listed mineral mining activities, whether that mineral mining activity is the primary activity or a co-located (i.e. non-primary) activity at a particular location. Taking the example of a cement manufacturer, the primary activity may be cement manufacturing, but they may also operate a mineral mine at the same location. The benchmark would apply to the mineral mine even though it is a non-primary (co-located) activity.

13) Comment:

**Page 28 of 64 – Part IV – Section C.2.b.ii.(b)** – *It is not clear as to whether substantially identical outfalls can be used with respect to stormwater discharging to waters for which there is an EPA-approved or established TMDL.* **Page 23 of 64 - Part IV – Section C.1.a** of this Permit states that “applicable monitoring requirements apply to each outfall authorized by this permit, except otherwise exempt from monitoring as substantially identical outfall.” This seems to imply that, since no exemption is given in **Part IV - Section C.2.b.ii(b)** for stormwater discharging to waters for which there is an EPA-approved or established TMDL like the one given in **Page 28 of 64 - Part IV - Section C.2.b.ii(a)(i)** for stormwater discharging to impaired waters without an EPA approved or established, all stormwater outfalls that discharge to waters for which there is an EPA-approved or established TMDL must be monitored for the pollutants of concern in the TMDL. However, **Part IV – Section C.1.a** of this Permit also states that “the allowance for monitoring only one of the substantially identical outfalls is not applicable to any outfalls with effluent limitations specified in Part X of this Permit” and that “you are required to monitor each outfall covered by a numeric effluent limit as identified in Part X of this Permit.” This is problematic because it is not clear as to whether a TMDL is considered to be comparable to a numeric effluent limit and whether the pollutant of concern in the TMDL is listed in Part X of this Permit.

*What is really needed here is a clarification as to whether the substantially identical outfall monitoring exemption applies to stormwater discharges to waters for which there is an EPA-approved or established TMDL. Please note that this clarification is also lacking in the **draft NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (Except Construction)**. With respect to this permit, Mel Leaphart of SCDHEC sent the attached email to EPA Region IV on June 17<sup>th</sup> asking for their assistance in this determination since its MSGP was the basis for the draft general stormwater permit and the exemption for substantially identical outfalls with respect to stormwater discharges to waters for which there is an EPA-approved or established TMDL was not clear in it either.*

Response: As written, the substantially identical outfall exemption in Part IV.C.1.a does apply to impaired waters monitoring for discharges to waters for which there is an EPA-approved or established TMDL, unless those discharges are subject to numeric effluent limitations included in Part X of the permit. The Department does not consider a TMDL to be a numeric effluent limitation as identified in Part X of the permit. However, if the discharge contains the pollutant for which the TMDL was established, then an individual permit may be required to limit the discharge of that pollutant.

14) Comment:

**Page 28 of 64 – Part IV – Section C.2.b.ii.(b)(i)** – *With respect to the monitoring schedule for discharges to impaired waters with an EPA-approved or established TMDL, it is not clear how many “first-year samples” are required to comply with this Permit with respect to either number or frequency.* Is one to assume that this would be comparable to the impaired water monitoring schedule for discharges to impaired waters with an EPA approved or established TMDL of “not less than four times per 12-month period” on **Page 46 of Section 6.2.4.2.b.i of the draft NPDES General Permit for Storm Water Discharges Associated with Industrial Activities (Except Construction)**? However, if this is not the case, I can only assume that unless the TMDL calls for monitoring of industrial stormwater discharges, no monitoring is required at all under this Permit with respect to discharges to impaired waters with an EPA-approved or established TMDL. I find this possibility a bit unusual since **Page 28 of 64 - Part IV - Section C.2.b.ii.(a)(i)** of this Permit requires annual monitoring at each outfall (except substantially identical outfalls) discharging stormwater to impaired waters without an EPA approved or established TMDL. It seems contradictory that this Permit calls for monitoring to be performed for the pollutants of concern in the TMDL but yet leaves it up to the TMDL as to whether such monitoring should even take place at all.

Response: Part IV.C.2.b.ii.(b) requires monitoring of the TMDL pollutants of concern within a year of the effective date of the permit, the date of coverage being granted, or the date of the initiation of mining operations. The Department has revised the condition to clarify that this monitoring must be at least once during the first year.

While a TMDL may or may not include monitoring requirements applicable to stormwater from industrial activities, there will be at least one pollutant of concern associated with the TMDL. (Impaired waters monitoring is not required for streams impaired for biological until a final TMDL identifies the pollutant of concern per IV.C.2.b.i.(d), nor for streams impaired for dissolved oxygen per IV.C.2.b.i.(f).) Therefore, even if the TMDL does not include specific monitoring requirements, Part IV.C.2.b.ii.(b) requires monitoring for the pollutant of concern.

With that understanding, the TMDL may require specific monitoring applicable to stormwater from industrial activities. If that is the case, the permittee is required to implement that TMDL monitoring no later than 90 days after the annual review of the South Carolina TMDL list. The monitoring required by the TMDL could be used to satisfy the monitoring requirement for the TMDL pollutant of concern.

15) Comment: The monitoring and reporting requirements are burdensome and may not be able to be complied with as written.

Response: The Department believes that the requirements are reasonable and not overly burdensome.

16) Comment: How will facilities eligible for the unstaffed exemption be classified?

Response: The exemption from benchmark monitoring, routine quarterly inspections, and quarterly visual assessments applies at sites that are inactive and unstaffed. Therefore, a site must be both inactive and unstaffed. "Inactive" as used for this exemption is not in the sense of "inactive mineral mining facility" as defined at Part I.GG, but is intended to mean "inactive" in a more general sense. Therefore, if the site becomes inactive and unstaffed, and the permittee prepares the required certification (see Parts IV.C.2.a.(i)(d), VIII.E.1.c, and VIII.E.2.c.ii) and files it onsite with the SWPPP, the exemption would apply.

17) Comment: Request for leniency for a simple mine with simple operations, no fuel tanks, etc.

Response: This permit does have additional requirements that were not included in the previous permit. However, if a mining operation is able to keep all stormwater onsite without discharging, the most significant of the new changes, such as benchmark monitoring, impaired waters monitoring, and quarterly visual assessments, will not apply.

18) Comment: Regarding Part VIII.B, a request was made to remove the sentence regarding a determination of whether the discharge can still be covered under the permit. Additionally, a request was made to specify that construction permits under R.61-67 are not required for the installation of coagulation/flocculation systems.

Response: The Department has removed the requested sentence because it is redundant. The Department has also revised the condition such that coagulation/flocculation systems may be installed under a Department approval rather than a construction permit.